

BRAE
CORPORATION

(2)

VIA HAND DELIVERY

RECORDATION NO. 10053-A
Filed 1988

SEP 2 1988 - 11 35 AM

INTERSTATE COMMERCE COMMISSION

August 31, 1988

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
12th & Constitution
Room 2215
Washington, D.C. 20423

RECORDATION NO. 10053-B
Filed 1988

SEP 2 1988 - 11 35 AM

INTERSTATE COMMERCE COMMISSION

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C Section 11303 are one original and four copies of the following documents:

Equipment Schedule No. 4 dated as of July 22, 1988 between BRAE Transportation, Inc. and Burlington Northern Railroad Company

For purposes of this filing, the Equipment Schedule No. 4 relate only to those railcars, AAR Mechanical Designation, marked as follows:

BN 223270-223279
223282-223283
223285-223294
223297-223300
223303-223306
223309, 223643
223311-223312
223314-223315
223317-223329

Ms. Agatha Mergenovich
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The names and addresses of the parties to the transactions evidenced by the documents described above are as follows:

LESSOR: GATX/GLS Leasing Corporation
Embarcadero Four, Suite 2200
San Francisco, CA 94111

LESSEE: BRAE Transportation, Inc.
160 Spear Street, Suite 1600
San Francisco, CA 94105

SUB
LESSEE: Burlington Northern Railroad Company
9401 Indian Creek Parkway
Overland Park, KS 66210

Also, enclosed for filing and recordation pursuant to the provisions of 49 U.S.C Section 11303 are one original and four copies of the following documents:

Amendment No. 2 to the Lease Agreement dated March 1, 1984 between BRAE Transportation, Inc. and Indiana Hi-Rail Corporation

For purposes of this filing, the Amendment No. 2 relate only to those railcars, AAR Mechanical Designation, marked as follows:

IHRC11002-11005
11007-11020

The names and addresses of the parties to the transactions evidenced by the documents described above are as follows:

LESSOR: GATX/GLS Leasing Corporation
Embarcadero Four, Suite 2200
San Francisco, CA 94111

LESSEE: BRAE Transportation, Inc.
160 Spear Street, Suite 1600
San Francisco, CA 94105

SUB
LESSEE: Indiana Hi- Rail Corporation
R.R. #1, Box 242
Connersville, Indiana 47331

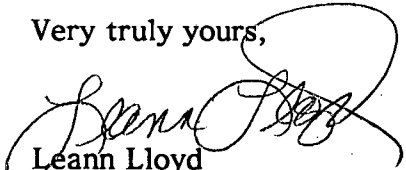
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It is requested that these documents be filed and recorded under the names of the parties as set forth above. In view of the fact that they relate to the Equipment Lease dated as of January 1, 1979 between BRAE Transportation, Inc. and GATX/GLS Leasing Corporation (formerly Gould Leasing Services, Inc., previously recorded and assigned recordation number 10053, we request that they be assigned the next available letter designations under that primary number.

I also enclose a check in the amount of \$26.00 for the required recordation fee.

Please return: (1) your letter acknowledging the filing, (2) a receipt for the \$26.00 filing fee, (3) the enclosed copy of this letter and (4) the original and four copies of document (retaining one for your files) all stamped with your official recordation information.

Very truly yours,



Leann Lloyd
Assistant Vice President &
Corporate Secretary

Enclosures

AMENDMENT NO. 2

DATE: August 1, 1988

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COPY

PARTIES: BRAE Transportation, Inc., 160 Spear Street, Suite 1600 San Francisco, California 94105 ("BTI"), and Indiana Hi-Rail Corporation, R.R. #1, Box 242, Connersville, Indiana 47331 ("Lessee").

RECITALS

- A. Pursuant to the Lease Agreement dated as of March 1, 1984, as amended by an Amendment dated June 30, 1986, (the "Lease Agreement"), BTI is currently leasing twenty-four (24) boxcars to Lessee.
- B. BTI and Lessee now desire to extend the term of the Lease Agreement and to amend certain sections of the Lease Agreement.
- C. In consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

AGREEMENTS

- 1. **Defined Terms.** The terms used in this Amendment No. 2 which are defined in the Lease Agreement shall have the same meanings herein as specified therein, except when specifically redefined.
- 2. **Equipment Schedule.** The Lease Agreement shall cover those railcars listed and identified in Equipment Schedule No. 2 attached hereto.
- 3. **Amendment to Section 2 of the Lease Agreement.** The paragraph contained in Section 2 shall be deleted in its entirety and the following new paragraph shall be substituted therefore:

"**Term.** This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The lease pursuant to this Agreement with respect to each Car shall commence when such Car has been delivered, as provided in Section 3A hereof, and shall continue until July 31, 1990."

- 4. **Amendment to Section 5 of the Lease Agreement.** The following new paragraph shall be added to the end of Section 5:

"E. If Lessee removes defective hydraulic end of car cushioning units, Lessee will obtain replacements from BTI and defective units will be returned to locations designated by BTI, provided however, that Lessee shall not be obligated to obtain replacements from BTI and is free to make replacements itself if it replaces any such defective units with Model E-10 SGR/C units manufactured by Keystone Railway Equipment Company. As to such units replaced by Lessee, BTI shall have the option to replace the unit(s) in Lessee's inventory in lieu of reimbursing Lessee's material charge. All transportation costs associated with the replacement of such hydraulic units by BTI and their return to BTI by Lessee shall be borne by BTI."

5. Amendment to Section 6.A.(i) of the Lease Agreement. Effective August 1, 1988, the second sentence of Section 6.A.(i) of the Lease Agreement shall be deleted in its entirety and the following two sentences shall be substituted therefore:

"Lessee shall remit to BTI 100% of the Payments received from other railroad companies for their use and handling of the Cars. Lessee shall be entitled to 10% of the Payments remitted to BTI hereunder ("Revenue Sharing"), and BTI shall pay such Revenue Sharing to Lessee on a monthly basis within thirty (30) days of BTI's receipt of Payments from Lessee."

6. Amendment to Section 6.C. of the Lease Agreement. Effective August 1, 1988, the paragraph contained in Section 6.C. shall be deleted in its entirety and the following new paragraph shall be substituted therefore:

"BTI may, upon ten (10) days written notice to Lessee, withdraw from this Agreement any or all of the Cars during any service month if the Utilization (as hereinafter defined) during a calendar quarter was less than 75%. Such determination shall be made by BTI based on the Monthly Report of Car Earnings and Expenses supplied to BTI by Lessee. If, during such ten (10) day notice period, Lessee elects to pay to BTI the difference between the amount of revenue (time and mileage) which the Cars would have earned if their Utilization was equal to 75% during such calendar quarter and the amount of revenue (time and mileage) which the Cars did actually earn during such calendar quarter (the "Make-up Amount"), BTI shall be precluded from withdrawing any Cars from this Agreement pursuant to this Section 6.C.. For purposes of determining Utilization, "Car Hour" shall mean one hour during which one Car is on lease hereunder, commencing August 1, 1988. The term "Utilization" shall mean, with respect to any period, a fraction, the numerator of which is (x) the total Payments (time and mileage) earned by the Cars during such period, less the Revenue Sharing to which Lessee is entitled for such period, and the denominator of which is (y) the aggregate number of Car Hours during such period multiplied by the then applicable per diem rate with respect to the Cars, plus the aggregate number of Car Days (Car Hours divided by 24) during such period multiplied by the then applicable mileage rate with respect to the Cars, multiplied by 80 miles of travel per day per Car. The applicable per diem and mileage rates shall be determined pursuant to the UMLER Hourly and Mileage Car Hire Rate Table." may bilateral
negotiate on
loading fees
allowed by BTI

7. Amendment to Section 6 of the Lease Agreement. The following new paragraph shall be added to the end of Section 6:

"H. Lessee shall invoice BTI for all expenses incurred by Lessee which are subject to reimbursement by BTI pursuant to this Agreement. Therefore, Lessee shall not deduct such amounts, including but not limited to repair and maintenance expenses and property taxes, from the Payments earned by the Cars. Further, Lessee shall not deduct Revenue Sharing, as provided in Section 6.A.(i) hereof, from the Payments earned by the Cars."

Payment of said expense invoices shall be made to lessee within (45) forty-five days ~~from lessee's invoice date~~ after BTI's receipt of an invoice from Lessee.

8. Limitation. Except as amended herein, the Lease Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No 2 as of the date first written above.

BRAE TRANSPORTATION, INC.

By

Printed Name

Title

Date

INDIANA HI-RAIL CORPORATION

By

Printed Name

Title

Date

EQUIPMENT SCHEDULE NO. 2

BRAE Transportation, Inc. ("BTI") hereby leases the following railcars to Indiana Hi-Rail Corporation ("Lessee") pursuant to that certain Lease Agreement dated as of March 1, 1984, as amended (the "Lease Agreement").

<u>Number of Cars</u>	<u>Description</u>	<u>A.A.R. Designation</u>	<u>Car Number(s)</u>
24	50'6", Double Sliding Door, 70-ton Boxcars	XM	IHRC 11000-11024*

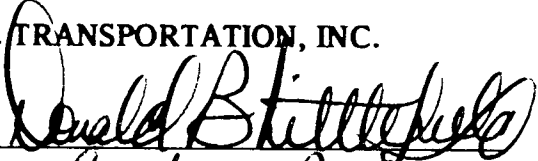
* Excluding IHRC 11006 which was destroyed 7/23/87

BTI and Lessee hereby agree that this Equipment Schedule No. 2 shall supersede Equipment Schedule No. 1 and such Equipment Schedule No. 1 shall become null and void as of the date hereof.


BRAE and Lessee hereby incorporate by reference all of the terms, conditions and provisions of the Lease Agreement in this Equipment Schedule No. 2.

IN WITNESS WHEREOF, the parties have executed this Equipment Schedule No. 2 as of the 8th day of August, 1988.

BRAE TRANSPORTATION, INC.

By 
Title President - Rail Division
Date August 8 1988

INDIANA HI-RAIL CORPORATION

By 
Title V.P. Equipment
Date 8-1-88

STATE OF Indiana)
COUNTY OF Fayette) ss.

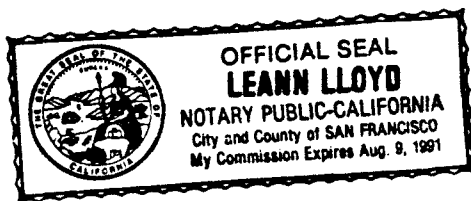
On this 1st day of August, 1988, before me personally appeared David Booker, to me personally known, who being by me duly sworn, did depose and say that such person is V.P. Equipment of Indiana Hi-Rail Corporation, and that the foregoing Amendment No. 2, and Equipment Schedule No. 2 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

Kimberly Ann Brown
Notary Public

[seal]

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO) ss.

On this 8th day of August, 1988, before me personally appeared Donald B. Wilkfield, to me personally known, who being by me duly sworn says that such person is President - Rail of BRAE Transportation, Inc., and that the foregoing Amendment No. 2, and Equipment Schedule No. 2 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.



[seal]

Leann Lloyd
Notary Public